

Fund with respect to that claim to or on behalf of a covered Part B employee, a covered Part E employee or an eligible surviving beneficiary, less charges for any medical file review (*i.e.*, the physician did not examine the employee) done at the request of OWCP. Charges for medical examinations also may be subtracted if the covered Part B employee, covered Part E employee or an eligible surviving beneficiary establishes that the examinations were required to be made available to the covered Part B employee or covered Part E employee under a statute other than EEOICPA.

§ 30.609 Is a settlement or judgment received as a result of allegations of medical malpractice in treating an illness covered by EEOICPA a recovery that must be reported to OWCP?

Since an injury caused by medical malpractice in treating an occupational illness or covered illness compensable under EEOICPA is also covered under EEOICPA, any recovery in a suit alleging such an injury is treated as a recovery that must be reported to OWCP.

§ 30.610 Are payments to a covered Part B employee, a covered Part E employee or an eligible surviving beneficiary as a result of an insurance policy which the employee or eligible surviving beneficiary has purchased a recovery that must be reported to OWCP?

Since payments received by a covered Part B employee, a covered Part E employee or an eligible surviving beneficiary pursuant to an insurance policy purchased by someone other than a liable third party are not payments in satisfaction of liability for causing an occupational illness or covered illness compensable under the Act, they are not considered a recovery that must be reported to OWCP.

§ 30.611 If a settlement or judgment is received for more than one medical condition, can the amount paid on a single EEOICPA claim be attributed to different conditions for purposes of calculating the amount to which the United States is subrogated?

(a) All medical conditions accepted by OWCP in connection with a single

claim are treated as the same illness for the purpose of computing the amount which the United States is entitled to offset in connection with the receipt of a recovery from a third party, except that an injury caused by medical malpractice in treating an illness covered under EEOICPA will be treated as a separate injury.

(b) If an illness covered under EEOICPA is caused under circumstances creating a legal liability in more than one person, other than the United States, a DOE contractor or subcontractor, a beryllium vendor or an atomic weapons employer, to pay damages, OWCP will determine whether recoveries received from one or more third parties should be attributed to separate conditions for which compensation is payable in connection with a single EEOICPA claim. If such an attribution is both practicable and equitable, as determined by OWCP, in its discretion, the conditions will be treated as separate injuries for purposes of calculating the amount to which the United States is subrogated.

EFFECT OF TORT SUITS AGAINST BERYLLIUM VENDORS AND ATOMIC WEAPONS EMPLOYERS

§ 30.615 What type of tort suits filed against beryllium vendors or atomic weapons employers may disqualify certain claimants from receiving benefits under Part B of EEOICPA?

(a) A tort suit (other than an administrative or judicial proceeding for workers' compensation) that includes a claim arising out of a covered Part B employee's employment-related exposure to beryllium or radiation, filed against a beryllium vendor or an atomic weapons employer, by a covered Part B employee or an eligible surviving beneficiary or beneficiaries of a deceased covered Part B employee, will disqualify that otherwise eligible individual or individuals from receiving benefits under Part B of EEOICPA unless such claim is terminated in accordance with the requirements of §§ 30.616 through 30.619.

(b) The term "claim arising out of a covered Part B employee's employment-related exposure to beryllium or radiation" used in paragraph (a) of this